

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

POLICY AND PROCEDURES IN THE	)	
PROVISION OF OPERATOR-ASSISTED	)	ADMINISTRATIVE
TELECOMMUNICATIONS SERVICES	)	CASE NO. 330

O R D E R

On September 8, 1989, the Commission issued an Order setting out restrictions and conditions of service for non-local exchange carrier providers of operator-assisted services which had not been previously ordered to comply with these restrictions. Specifically, AT&T Communications of the South Central States, Inc. ("AT&T"), AmeriCall Systems of Louisville ("AmeriCall"), US Sprint Communications Company ("Sprint"), and ITT Communications and Information Services, Inc. ("ITT") were required to refile their operator-assistance tariffs or provide evidence why they should not comply. The companies were also given the option of requesting a hearing. All four of the named carriers have responded, and all except ITT have requested a conference, hearing, or both. MCI Telecommunications Corporation ("MCI") and the Utility and Rate Intervention Division of the Office of the Attorney General ("Attorney General") were granted intervention by

Order dated November 16, 1989. International Telecharge, Inc. ("ITI"),<sup>1</sup> American Operator Services, Inc. (now National Telephone Services, Inc. "NTS"),<sup>2</sup> MCI,<sup>3</sup> and Equicom Communications, Inc. ("Equicom"),<sup>4</sup> respectively, were granted authority to provide operator-assisted telecommunications service under the same conditions and restrictions as set forth in the Commission's September 8, 1989 Order in this case.

In all areas of utility regulation, the overriding responsibility of the Commission is to ensure that the public interest is served and protected. To this end, the Commission has established a policy of allowing competition within selected service markets and has limited its regulatory oversight in instances where, due to the nature of the service and lack of market power, carriers would not be in a position to violate the fair, just, and reasonable requirements of KRS 278.030.<sup>5</sup>

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- <sup>1</sup> Case No. 10002, The Application of International Telecharge, Inc. for a Certificate of Convenience and Necessity to Operate as a Reseller of Telecommunications Services Within the State of Kentucky.
  - <sup>2</sup> Case No. 10130, The Application of American Operator Services, Inc. for a Certificate of Convenience and Necessity to Provide Intrastate Operator-Assisted Resold Telecommunications Services As a Non-Dominant Carrier.
  - <sup>3</sup> Case No. 89-046, The Tariff Filing of MCI Telecommunications, Inc. to Offer Operator Assistance.
  - <sup>4</sup> Case No. 89-127, Application of Equicom Communications, Inc. for a Certificate of Convenience and Necessity to Operate As a Reseller of InterLATA Telecommunications Services Within the Commonwealth of Kentucky.
  - <sup>5</sup> Administrative Case No. 273, An Inquiry Into Inter- and IntraLATA Intrastate Competition in Toll and Related Services Markets in Kentucky.

In Case No. 10002, the Commission found that, even though an operator services provider might lack market power, the nature of the services did not lend itself to the normal controls of the marketplace. Without sufficient regulation, the manner in which operator services are provided would have the effect of denying, or limiting, the end-user's choice of carriers. In addition, the billing mechanism, in which calls are not billed to the calling number, or billed by any other method which would require prearrangement between the carrier and end-user, would give the operator services provider the capability of extracting unreasonably high rates. However, the Commission recognized that the expense of preparing and supporting rates and fully complying with accounting and cost allocation procedures would be burdensome and costly. Therefore, the Commission allowed limited rate flexibility to the extent that rates do not exceed the maximum rates allowed in AT&T's most recent rate proceeding for toll service applicable to operator-assisted calls, including time-of-day discounts and rating of calls, plus the additional charges for operator assistance.

The Commission also found the manner in which the operator services were provided caused substantial public confusion. The Commission stated that true competition required that consumers have access to competing carriers and the freedom to choose among them. To exercise this freedom, consumers must also be aware of the identity of the carrier to which they are or will be connected. In order to alleviate these problems, the Commission required that tent cards and stickers be placed on or near

telephone equipment and that operators identify the carrier at the beginning and end of every call. Blocking and interception prohibitions were also imposed to ensure that all "O minus" calls were directed to the local exchange carrier operators, to prevent completion of unauthorized intraLATA calls, and to provide access to competing carriers. In order to enforce these restrictions, the Order required that tariffs and contracts set out these requirements and that violators be subject to immediate termination for failure to display the tent cards and stickers or to bring customer premises equipment into compliance within 20 days of the notice from the utility to the owners of the equipment.

The Commission stated its intent to universally apply these requirements to operator-assisted services of all non-local exchange carriers and instituted Administrative Case No. 330 for the purpose of investigating and establishing policies and procedures applicable to the provision of all operator-assisted telecommunications services in Kentucky. Therefore, the September 8, 1989 Order, this Order, and any subsequent Orders entered in this case shall be extended to ITI, NTS, MCI, and Equicom, which are currently authorized to provide operator-assisted services, and shall govern all operator-assisted services subsequently authorized unless specifically modified by the Commission.

In their responses to the September 8, 1989 Order, AT&T, AmeriCall, Sprint, and ITT objected to several of the requirements set out therein. After reviewing the responses and other evidence of record, the Commission has determined that some of the

objections are reasonable on their face and that a portion of the Commission's September 8, 1989 Order should be modified as stated herein.

#### Rates

The Order required that rates not exceed AT&T's rates and that the carriers file any necessary tariff revisions within 30 days of AT&T rate changes. The major objection to this requirement came from AT&T itself, which felt that competitive forces in the market place should establish rates and that if the Commission chose to regulate rates, then rates should be based on each company's own costs. AmeriCall agreed with using AT&T rates for interLATA services; however, it felt that for intraLATA services, rates should not exceed South Central Bell rates. Sprint stated that its existing policy was to always price its services below AT&T rates; however, it was concerned that it may not always be aware of rate changes in sufficient time to comply with the 30-day requirement.

#### Carrier Identification Code

Carriers were required to provide the 10XXX0 access codes of other carriers if requested by the customer. All of the carriers objected to this requirement, the consensus being that each carrier should bear the responsibility of educating its own customers on how to access their preferred carriers when away from home. AT&T noted that 10XXX0 access codes would be of no use from non-equal access offices. Sprint had implementation problems.

These codes cannot be used to access carriers in non-equal access end offices or if the carrier chooses not to subscribe to equal access in exchanges where equal access is available. Further, it is reasonable to expect each carrier to educate its own customers as to its 10XXX0 access code. Therefore, carriers should not be required to provide access codes of competitors.

#### Carrier Identification

The Order required operators to identify the carrier at the beginning and conclusion of the operator contact on every call. AT&T is unable to identify itself at the beginning of all calls; however, it is trying to change this. It suggests that operators be required to identify the carrier before charges are incurred. ITT has difficulty in complying in instances where automated equipment is used and requests a six-month extension for implementation. AmeriCall feels that one time is sufficient for automated calls.

The purpose of this requirement was to ensure that the end-user was aware of the carrier's identity and to provide the opportunity to access a different carrier if desired. This purpose can be served by requiring operators to identify the carrier at least once before any charges are incurred.

#### Blocking and Interception Prohibition/Tent Cards and Stickers

The Order prohibits blocking of access to competing carriers, and in most situations, prohibits the blocking of calls to local exchange carrier operators. As these types of blocking normally occur in customer premises equipment, carriers are required to

terminate service (after suitable notice) to violators of these prohibitions. Sprint was concerned with its obligation to police, such as what should be considered evidence of non-compliance or of the eventual compliance of the owner after he had been notified of violations. As a general rule, AmeriCall agreed with the Commission's requirement; however, it felt that exceptions should be made to prevent fraud, particularly for payphones in areas where emergency access to an operator is not required. AT&T requested clarification and suggested that these restrictions apply only to traffic aggregators and that the violator's local service be disconnected rather than long-distance services. AT&T defines a "traffic aggregator" as every person or entity, which is not a telecommunications carrier, who in the ordinary course of business, makes telephones available to the public or to transient users of its business including but not limited to hotels, motels, hospitals, private pay phone companies, and universities.

The Order required carriers to supply tent cards and stickers to be placed near or on telephone equipment to which they provide service. AT&T noted that they provide service to all telephones and suggested that these requirements apply only to traffic aggregators. ITT noted that most of its operator services were provided to presubscribed customers to supplement its "1+" services. Sprint again expressed policing concerns.

In its September 8, 1989 Order, the Commission reiterated its finding in Case No. 10002 that these restrictions and conditions for operator-assisted services are necessitated primarily by the lack of a formal, prearranged relationship between the carrier and

the actual user of its services. Because the primary relationship is between the carrier and the host business or traffic aggregator, not the actual user of services, the blocking and interception prohibitions and the requirement to provide tent cards and stickers should be applicable only to traffic aggregators.

In its response, AT&T proffered a definition of "traffic aggregator" which excluded telecommunications carriers. Although traffic aggregators thus far have been entities such as hotels, motels, hospitals, private pay phone companies, and universities, the characteristics of the service itself provide the definition of traffic aggregators. Therefore, the Commission is not inclined to make exclusions at this time.

#### Miscellaneous

Carriers are not permitted to accept calling cards if they are unable to validate them. AmeriCall was the only carrier to object to this requirement on the basis that most carriers did not have access to all validation data bases.

Sprint was unsure what tariff modifications were required, because many of the requirements relate to internal operating procedures. AmeriCall requested an investigation to determine if AT&T should be the only entity with statewide billing and collection capability.

IT IS THEREFORE ORDERED that:

1. Carriers shall not be required to provide 10XXX0 access codes of competing carriers. It shall be the responsibility of



each carrier to educate its customers as to the appropriate access code.

2. Operators shall identify the carrier at least once during every call before any charges are incurred.

3. Blocking and interception prohibitions and the requirement to provide tent cards and stickers shall apply only to traffic aggregators.

4. All other provisions of the Commission's Order of September 8, 1989 shall remain in full force and effect pending the final outcome of the proceeding herein.

5. Carriers currently authorized to provide operator-assisted services and having an effective tariff on file with the Commission in compliance with previous Orders may continue to operate under those tariffs and shall not be required to file revised tariffs reflecting the modifications herein at this time. However, should a carrier choose to implement these modifications prior to a final determination, a revised tariff shall be filed before such changes are implemented.


6. An informal conference shall be held February 5, 1990 at 10:30 a.m., Eastern Standard Time, at the Commission's offices in Frankfort, Kentucky, Hearing Room 1, for the purpose of discussing the remaining issues expressed in the responses.

7. Scheduling of a formal hearing shall be held in abeyance pending the outcome of the informal conference.

Done at Frankfort, Kentucky, this 15th day of January, 1990.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

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Commissioner

ATTEST:

  
Executive Director